the contract of the insurance company was to indemnify the vendor and him alone; that the premiums paid were compensation for that risk only, and that where he is still entitled to the full purchase price, to deny subrogation is to make the company an insurer for the vendee as well. The objection as between the vendor and vendee, that the vendor is not in equity entitled to more than he bargained for, *i. e.*, to the insurance plus the full purchase price, is met by subrogating the insurer. This likewise does away with the argument of public policy, tending to discourage negligence on the part of the vendor. On the other hand it may be urged that subrogation should be operative only as against a wrongdoer or one guilty of negligence; but there is what looks like strong authority to the contrary in *U. S.* v. *Amer. Tobacco Co.*, 166 U. S., 468 (1896), insurer subrogated to rights of insured against U. S. to be refunded value of revenue stamps accidentally destroyed. Even admitting that premise, the vendee here may be deemed negligent for failing to insure his interest. Finally, it has been said, that where the vendor continues to pay premiums for the *full* value of the property he must be presumed to do so for the benefit of the vendee as well as his own, that therefore he must hold as trustee, and that there can be no subrogation by analogy with the recognized doctrine with regard to mortgagor and mortgagee. But this, as is submitted, is not only a presumption contrary to fact, but is against the express stipulations of the policy. Moreover, it is hard to see how a vendor who, admittedly, alone has the right to sue on a policy which does not run with the land, should, *ipso facto*, by the occurrence of loss become a trustee of the money recovered thereunder. For these reasons the English decisions would appear the sounder and more in conformity with rules well established in the case of mortgagor and mortgagee. [For bare statements on the subject in general, see *May, Insurance* (4th ed., 1900), § 456, 456*a*, 457; *Joyce, Idem* (1897), §§ 3525, 3569; and for short discussions, *May*, pp. 1046–7; *Richards, Idem* (1898), §§ 32, 158 and at p. 294.]

INSURANCE.—FORFEITURE OF POLICY FOR BREACH OF ALIENATION CLAUSE.—The case of *Skinner* v. *Houghton* (See RECENT CASES) also involved the question of what shall constitute a change of interest under the alienation clause of the standard free policy. It is a square decision against what a recent writer has declared to be the rule understood and acted upon by the insurance companies and the legal profession generally. *Richards on Insurance* (1898) §147. Under the old form of policy, collected with decisions in *May on Insurance* (4th ed., 1900), at pp. 575–9, providing against any "change in title or possession," the decisions were uniform that a contract to sell unaccompanied by change of possession was not such a change as to work a forfeiture. *May, supra*, §267; *Joyce on Insurance* (1897), §2284. But the language of the standard policy is broader, covering every "change in interest, title or possession." This was clearly intended to mean every insurable "interest," equit-

able as well as legal, but a doubt arises owing to the tendency of the courts to construe the policy most strongly against the insurance companies. Apparently there is very little authority on the subject.

In *Erb.* v. *German-Amer. Ins. Co.*, 67 N. W., 583 (Iowa, 1896)—standard policy—there was an agreement to exchange the insured property for land not later than a given date, but the agreement was never executed. It was held there had been no change of posession or right of use, but merely an agreement to make a change in the future, and consequently no change of interest within the meaning of the policy. *Ins. Co.* v. *Wilson*, 55 S. W., 935 (Ark., 1900), was a contract to sell, but no payment had been made and the vendor was still in possession. The provision was that the "policy should be void if the interest of the assured became other than the entire ownership." The Court in a dictum assuming "interest" to mean something different from "title," held there had been no breach. On the other hand, in *Gibb* v. *Phila. Fire Ins. Co.*, 59 Minn., 267 (1894)—standard policy—the Court said, "the word 'interest' is broader than the word 'title' and includes both legal and equitable rights." The vendee here, however, had entered into possession under the contract, though the Court added, "it is not necessary to consider the question of the change of possession except in so far as it 'strengthens' the interest acquired by the vendee." Finally, in *Germond* v. *Home Ins. Co.*, 2 Hun, 540 (1874), a contract of sale and part payment of the purchase money was held to work a forfeiture under a clause worded "if the interest of the parties therein shall be changed." Probably there was no change of possession, though the fact is not stated in the record. *Cf.* also *Western Mass. Ins. Co.* v. *Riker*, 10 Mich. 279 (1862); *Edmunds* v. *Ins. Co.*, 1 Allen, 311 (1861); *Abbott* v. *Hampden Ins. Co.*, 30 Me., 414 (1849).

The present case would seem to be the first square decision as to the effect of such a contract under the standard policy, and on principle it is submitted the reasoning of the Court is unanswerable. The vendee had an insurable interest in the property and one which he could enforce by specific performance. Conversely, in most jurisdictions, the vendor was entitled to the full purchase price even after the destruction of the property (1 COLUMBIA LAW REVIEW, 1–10). Hence, it could not well be said that there was no increase of risk, and that the vendor any longer had that "unconditional and sole ownership" stipulated for in another part of the policy. Under this latter clause a vendee in possession with an equitable right to the whole title unencumbered has been held the unconditional and sole owner; while though the insured be invested with the legal title, if the equitable estate and the right to the legal estate are in another, the policy is voided unless the fact is stated. See *Richards, supra*, §143, and cases cited. The decision in the main case seems only to carry out this reasoning to its logical conclusion; and the same should be held, even though no part of the purchase price had yet been paid, as the vendee until default has a good equitable interest.